

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

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BRIAN HARRIS,

Plaintiff,

-against-

No. 20-CV-10864(LGS)

CITY OF NEW YORK; Lieutenant ANGEL
LEON; Detective KRISTEN SWINKUNAS (Shield #2190);
Police Officer ANTONELLA JIMENEZ (Shield #5209);
Police Officer MAXWELL BALTZER (Shield No. 15451);
and Lieutenant JOHN LANE,

Defendants.

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DEPOSITION OF POLICE OFFICER ANTONELLA JIMENEZ

New York, New York

November 10, 2021

9:00 a.m.

ELLEN SANDLES REPORTING
145 East 16th Street, #9H
New York, New York 10003
212-677-8739

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212-677-8739

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Can you please spell that for the court
3 reporter?

4 A. A-N-T-O-N-E-L-L-A and my last name
5 J-I-M-E-N-E-Z.

6 Q. What is your current shield number?

7 A. 5209.

8 Q. Have you had any prior shield numbers
9 in your employment with the NYPD?

10 A. No.

11 Q. What is your current rank?

12 A. Police officer.

13 Q. What is your approximate height?

14 A. 5'7".

15 Q. What was your approximate weight as of
16 September 2nd of 2020?

17 A. About 160.

18 Q. Did you exercise as of September 2nd of
19 2020?

20 MR. ARKO: Objection.

21 A. Yes.

22 Q. What was your exercise regimen as of
23 September 2nd, 2020?

24 A. Running.

25 Q. Did you lift weights at that time?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. No.

3 Q. What is the highest level of education
4 that you have obtained?

5 A. Bachelor's degree.

6 Q. Where did you obtain your bachelor's
7 degree?

8 A. York College.

9 Q. Where is that located?

10 A. In Queens.

11 Q. What year did you obtain your
12 bachelor's degree?

13 A. 2018.

14 Q. Did you have any employment between
15 your graduation from York College in 2016 and
16 joining the NYPD?

17 A. Yes.

18 Q. What was your first employment that you
19 obtained out of college?

20 A. I believe it was a case planner.

21 Q. Who were you employed by when you
22 worked as a case planner?

23 A. Harlem Dowling.

24 Q. What kind of organization is Harlem
25 Dowling?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. It is preventive care for families.

3 Q. Can you be describe generally speaking
4 what your job responsibilities were when you
5 worked there?

6 A. I would have different cases, families
7 that were going through certain situations, it
8 could be abuse, child not going to school; things
9 along those lines.

10 Q. What were your responsibilities as to
11 those families?

12 A. To help them overcome the issues they
13 were going through.

14 Q. When did you leave your job with Harlem
15 Dowling?

16 A. It was right before I went into the
17 academy which I believe was in December of 2019.

18 Q. Did you have any jobs in between Harlem
19 Dowling and entering the police academy?

20 A. No.

21 Q. Was the reason you left that job in
22 order to start with the police academy?

23 A. It was to start with the police
24 academy.

25 Q. Have you ever held any private security

1 POLICE OFFICER ANTONELLA JIMENEZ

2 jobs during your life?

3 A. No.

4 Q. Have you ever been in the military?

5 A. No.

6 Q. You testified a moment ago that you
7 believed you joined the academy in December of
8 2019.

9 Correct?

10 A. I joined the academy in January of
11 2020.

12 Q. So you think you left the job in
13 December 2019, and joined the academy in January
14 of 2020?

15 A. Yes.

16 Q. How long were you in the academy for?

17 A. Six months.

18 Q. Did you graduate from the academy after
19 six months?

20 A. Yes.

21 Q. So did you graduate from the academy in
22 or around June 2020?

23 A. Yes.

24 Q. What was your first command out of the
25 academy?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. 26th Precinct.

3 Q. How did it come to be that you were
4 assigned to a command at the 26th Precinct after
5 graduating from the academy?

6 A. I got placed in the 26th Precinct, they
7 give you a list and in the list you give your
8 preference of where you'd like to go.

9 Q. Did you list the 26th Precinct?

10 A. I listed Manhattan North.

11 Q. Is the 26th Precinct in Manhattan
12 North?

13 A. Yes.

14 Q. Why were you interested in having a
15 command in the Manhattan North?

16 A. My commute would be convenient.

17 Q. Good reason. When you were assigned to
18 the 26th Precinct, what were your duties and
19 responsibilities?

20 A. I was on patrol; so respond to radio
21 runs, take reports, change tours.

22 Q. "Change tours"?

23 A. Meaning different assignments.

24 Q. Can you describe your supervisory chain
25 when you first started as a patrol officer in the

1 POLICE OFFICER ANTONELLA JIMENEZ

2 26th Precinct?

3 MR. ARKO: Objection.

4 A. Can you explain the question?

5 Q. Sure. Who did you report to when you
6 first started as a patrol officer in the 26th
7 Precinct?

8 MR. ARKO: Objection.

9 A. There are many different supervisors.

10 Q. Did you have different supervisors on
11 each tour depending on your assignment?

12 A. Yes, I did.

13 Q. Were there generally a group of people
14 you reported to most frequently?

15 MR. ARKO: Objection.

16 A. No, it all depends what tour you're
17 working on and who was the supervisor for the day.

18 Q. When you started at the 26th Precinct
19 were you a member of any particular units or
20 subdivisions or task forces?

21 A. No.

22 Q. Is your command post still in the 26th
23 Precinct today or has it changed?

24 A. It is still the 26th Precinct.

25 Q. Are you still a patrol officer or have

1 POLICE OFFICER ANTONELLA JIMENEZ

2 your duties and responsibilities changed?

3 A. I am still a patrol officer.

4 Q. Have you received any awards or
5 commendations during your time as an officer in
6 the 26th Precinct?

7 A. No.

8 Q. Have you received any discipline or
9 negative feedback during your time as an officer
10 in the 26th Precinct?

11 MR. ARKO: Objection, I am going to
12 instruct the officer to limit the answer to any
13 discipline -- just to the scope of the question
14 anything that would relate to allegations of
15 excessive force or false statements.

16 MS. KAUFMAN: We disagree with that and
17 intend to take it up with the court as an improper
18 objection --

19 Q. But subject to that, can you go ahead
20 and answer the question Officer?

21 A. Not that I know of.

22 Q. Have you ever taken a promotional exam,
23 such as a detective's exam?

24 A. No.

25 MS. KAUFMAN: I am going to put in the

1 POLICE OFFICER ANTONELLA JIMENEZ
2 chat a document that I am going to mark as an
3 exhibit. And I will also screen share. I will
4 mark this as [Exhibit 10](#).

5 (Plaintiff's [Exhibit No. 10](#) was
6 marked for identification.)

7 Q. Officer Jimenez, I am showing you a
8 document that has been marked Plaintiff's
9 [Exhibit 10](#), it bears the Bates number Def 037
10 through Def 040.

11 Are you able to see this document?

12 A. Yes.

13 Q. Do you recognize this document?

14 A. Yes.

15 Q. Can you describe for me what this
16 document is?

17 A. It is my memo book entry.

18 Q. Looking at the dates on the top, is
19 this your memo book entry for September 1st, 2020
20 through September 2nd, 2020?

21 A. Yes.

22 Q. Generally speaking, what is the purpose
23 of a memo book?

24 A. It is putting your activity at work.

25 Q. Taking a look at this document it looks

1 POLICE OFFICER ANTONELLA JIMENEZ
2 like you reported as "present for duty" at 23:15,
3 that is the equivalent of 11:15 p.m. on
4 September 1, 2020.

5 Correct?

6 A. Yes.

7 Q. Is that the time your tour was
8 scheduled to begin?

9 A. Yes.

10 Q. Was it typical for you to work the
11 overnight tour at this time?

12 A. I had just started the midnight tour,
13 maybe a weekend (ph).

14 Q. I'm sorry, did you say "maybe a week
15 before" or "maybe a weekend"?

16 A. A week into --

17 Q. A week into the overnight tour. So
18 just to be clear, you had just been working the
19 overnight tour about a week prior to September 1st
20 of 2020, is that correct?

21 A. Yes.

22 Q. Prior to that, what tour were you
23 working?

24 A. Four by, (sic) it is the afternoon
25 tour.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. How come you switched from the
3 afternoon tour to the overnight tour?

4 A. I came out of the academy after six
5 months and then I was on the field training
6 officer training (sic) for six months, so I had
7 two months of training. So you do two months of
8 each tour.

9 Q. I see. So this was just your time to
10 start the overnight tour?

11 A. Correct.

12 Q. When you showed up for duty on the
13 night of September 1, 2020, where did you go
14 physically?

15 MR. ARKO: Objection.

16 A. What do you mean "where did I go
17 physically"?

18 Q. Where did you report, where did you go,
19 what's the location of where you report for duty?

20 A. It is the precinct, the 26th Precinct.

21 Q. What is the address of the 26th
22 Precinct?

23 A. 520 West 126 Street.

24 Q. Looking at your memo log, can you tell
25 what you did after reporting to the precinct that

1 POLICE OFFICER ANTONELLA JIMENEZ

2 night?

3 A. Sure. After reporting to the precinct
4 I reported to roll call, received my assignment,
5 my partner, and continued on from there.

6 Q. Looking at the document do you see here
7 that your partner is listed as Kristen Swinkunas?

8 A. Yes.

9 Q. You recall she was your partner that
10 you worked with that night?

11 A. Yes.

12 Q. Had you ever been paired with Kristen
13 Swinkunas before?

14 A. I don't think so.

15 Q. Have you ever been paired with Kristen
16 Swinkunas since this day?

17 A. Yes.

18 Q. Approximately how many times do you
19 think you have been paired together since this
20 night?

21 A. Maybe one more time.

22 Q. Do you remember when that additional
23 time was that you were paired together?

24 A. No.

25 Q. Do you have any understanding of why

1 POLICE OFFICER ANTONELLA JIMENEZ

2 you were paired with Detective Swinkunas that
3 night?

4 A. No.

5 Q. You said you received your assignment
6 for the night and then continued on.

7 What was your assignment for the night?

8 A. Sector Boy.

9 Q. What does that mean?

10 A. That means I would cover Sector Boy,
11 which is a sector of the precinct.

12 Q. When you say "cover a sector of the
13 precinct," what do you mean by cover; what were
14 your responsibilities as to that sector?

15 A. That means that when a radio run comes
16 in, covering that sector I would respond to it.

17 Q. Looking at this notation that you made
18 at 23:43 it says "visibility patrol: directed."

19 What does that mean?

20 A. You are at the location that you have
21 written down, and you just direct that everything
22 is -- there is no issues at the time.

23 Q. It is like a watch post just making
24 sure that the area is safe?

25 A. Yes.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Then at 23:54 there is a note that says
3 "supervisor review."

4 What does that indicate to you?

5 A. That is when the official supervisor
6 scratches your memo book.

7 Q. Does that mean that the supervisor
8 comes by to check on you or something else?

9 A. Yes, that's what that means.

10 Q. Was Sergeant Cannariato your supervisor
11 that night?

12 A. Yes, he was the patrol supervisor.

13 Q. Was he the patrol supervisor for your
14 sector or other sectors as well?

15 A. For all the sectors.

16 Q. There is a notation for a little after
17 midnight for a "mail run."

18 What does that indicate?

19 A. That indicates that we take whatever
20 comes from our precinct, the 30 Precinct, the 33
21 Precinct and the 34 Precinct that has to go to the
22 borough, pick it up and take it to the borough.

23 Q. At 1:54 a.m. it looks like there is a
24 another entry there, there are some redactions.

25 Do you have any recollection of what

1 POLICE OFFICER ANTONELLA JIMENEZ

2 this entry referred to?

3 A. I don't.

4 Q. At the 2:26 a.m. it looks like there is
5 another scratch by Lieutenant Leon.

6 Do you see that?

7 A. Yes.

8 Q. At 2:45 a.m. there is another entry
9 that has some redactions.

10 Do you have any recollection of what
11 that was?

12 A. No.

13 Q. At 3:00 a.m. there is another entry
14 that has some redactions.

15 Do you have any recollection of what
16 this was?

17 A. No.

18 MS. KAUFMAN: Chris, I think this might
19 have been improperly redacted, and so I am going
20 to request on the record that you take a second
21 and look at this because I think it could pertain
22 to the incident. If it is improper I will just
23 ask you produce it without redactions.

24 MR. ARKO: What Bates numbered page is
25 that? Sorry.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 MS. KAUFMAN: 40. And I can't tell if
3 the 2:45 was as well or not.

4 Q. Do you see at 4:34 it says "pick up
5 job"?

6 A. Yes.

7 Q. What does that refer to?

8 A. That is me and my partner went to 1111
9 Amsterdam, which is the hospital. I have it as a
10 "pick up" because there wasn't a radio run.

11 Q. What is the difference between a pick
12 up and a radio run?

13 A. A radio run is given by Central.

14 Q. What about a pick up?

15 A. A pick-up job is -- by any chance you
16 come across anything that needs assistance or if
17 you are called over to the location, for whatever
18 the reason is.

19 Q. Was it your recollection that you went
20 to 1111 Amsterdam not through a radio run but
21 through some other instruction?

22 A. Yes, I think so.

23 Q. To the best of your recollection, when
24 you wrote "4:34" would that have been the time you
25 think you were called to 1111 Amsterdam or does

1 POLICE OFFICER ANTONELLA JIMENEZ

2 that time reflect something else?

3 A. I don't remember.

4 Q. Do you remember what time you first
5 showed up at 1111 Amsterdam that evening?

6 A. No.

7 Q. Another comment that says "one under
8 for OGA and resisting arrest."

9 What does that indicate?

10 A. It indicates an arrest.

11 Q. Does that indicate that you made an
12 arrest or just an arrest was made by someone?

13 A. It indicates that I made the arrest.

14 Q. At 16:02 you wrote "end of tour."

15 Do you see that?

16 A. Yes.

17 Q. That would be approximately 2:00 p.m.,
18 is that right?

19 A. No.

20 Q. 4:00 p.m. -- no?

21 A. Yes, 4:00 p.m.

22 Q. You wrote "arrest process was
23 completed, release time was given."

24 What does that mean?

25 A. It means that I completed the arrest

1 POLICE OFFICER ANTONELLA JIMENEZ

2 processing, and the prisoner was released.

3 Q. Does this refer to the arrest that is
4 referenced in the notation above at 4:34?

5 A. Yes, I believe so.

6 Q. What was your normal end of tour time?

7 A. 7:15.(ph)

8 Q. 7:15 a.m. or p.m.?

9 A. 7:50 a.m.

10 Q. Why was it that you did not complete
11 your tour until 4:00 p.m. even though typically
12 you finished at 7:50 a.m.?

13 A. Because of the arrest.

14 Q. What about the arrest caused you to
15 leave nine hours later than you would typically
16 leave?

17 A. It depends how long the arrest
18 processing takes. Every arrest takes different
19 time.

20 Q. So is it typical for you when you make
21 an arrest during a tour that you have to stay
22 later than the typical end of your tour time?

23 A. Absolutely, yes.

24 Q. Are you paid overtime for that?

25 MR. ARKO: Objection.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. Yes.

3 Q. Was there anything about this
4 particular arrest that took longer or shorter than
5 usual?

6 A. Yes, I believe it was because of my
7 inexperience at the time; this was my second
8 arrest.

9 Q. When you say your "second arrest" you
10 mean the second arrest that you personally made
11 during your time at NYPD?

12 A. That I processed, yes.

13 MS. KAUFMAN: I will stop screen
14 sharing and pull up another document. It is
15 Plaintiff's [Exhibit 11](#). I will screen share it as
16 well.

17 (Plaintiff's [Exhibit No. 11](#) was
18 marked for identification.)

19 Q. Officer Jimenez, I am showing you a
20 document, it bears the Bates numbers Def 042
21 through Def 043.

22 Are you able to see this document?

23 A. Yes.

24 Q. Do you recognize this document?

25 A. Yes.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Can you describe for me what this
3 document is?

4 A. Yes, it is a Complaint that I signed.

5 Q. Are you referring to the signature here
6 on page Def 043 where you signed that "False
7 statements made in this written instrument are
8 punishable as a Class A misdemeanor pursuant to
9 section 210.45 of the Penal Law, and as other
10 crimes"?

11 A. Yes.

12 Q. Is this a document that you drafted?

13 A. No.

14 Q. Who drafted this document?

15 A. The ADA.

16 Q. When did the ADA draft this document?

17 A. I believe it was the same day, I don't
18 remember.

19 Q. Do you think it was on or about
20 September 2nd?

21 A. It had to be, yes, around there.

22 Q. Did you give information to the ADA in
23 drafting this document?

24 A. Yes.

25 Q. Looking here at the statement that says

1 POLICE OFFICER ANTONELLA JIMENEZ

2 "the factual basis for these charges are as
3 follows," take a look and read that for a second,
4 and then I will ask you a couple of follow-up
5 questions.

6 (Witness reading.)

7 A. Okay.

8 Q. Does the factual basis for the charges
9 listed in this document accurately reflect the
10 information you told the ADA?

11 MR. ARKO: Objection.

12 A. Yes.

13 Q. Does it accurately and completely
14 reflect information that you told the ADA? In
15 other words, is there information you told the ADA
16 you don't see reflected in this document?

17 MR. ARKO: Objection.

18 A. Yes.

19 Q. What information did you tell the ADA
20 to support the charges that you do not see
21 reflected in this document?

22 A. Well, I explained everything that I
23 could at the moment and the ADA summarized it like
24 this; but I mean I am pretty sure there is a lot
25 of information that had to be summarized shortly

1 POLICE OFFICER ANTONELLA JIMENEZ

2 like this.

3 Q. My question is, what information do you
4 recall that you told the ADA that you do not see
5 reflected as the factual basis in this document?

6 MR. ARKO: Objection.

7 A. I told the ADA from the start
8 everything, like, for example...let me see...one
9 second, I am just reading it.

10 (Witness reading.)

11 A. I see, like, for example, the moment
12 that Mr. Harris was TASED.

13 Q. What about that moment did you tell the
14 ADA that you don't see reflected in the document?

15 MR. ARKO: Objection.

16 A. I don't see it here reflected in the
17 document.

18 Q. You don't see it here reflected in the
19 document that he was TASED?

20 A. Yes.

21 Q. It is your testimony you did inform the
22 ADA that he was TASED.

23 Is that correct?

24 A. Yes.

25 Q. Other than the fact that the defendant

1 POLICE OFFICER ANTONELLA JIMENEZ
2 (sic) was TASED, is there anything else you recall
3 informing the ADA that you don't see described as
4 a factual basis for the charge?

5 MR. ARKO: Objection.

6 A. Off the top of my head, I don't
7 remember.

8 Q. Do you understand that the factual
9 basis for the charge is supposed to be the basis
10 to support the charges of obstructing governmental
11 administration in the second degree, and resisting
12 arrest?

13 MR. ARKO: Objection.

14 A. Can you explain?

15 Q. Sure. Do you understand that the
16 facts -- these paragraphs say that "the factual
17 basis for these charges are as follows" are
18 intended to provide factual support for the
19 charges listed at the top of the document, which
20 are OGA and resisting arrest?

21 A. Okay, yes.

22 Q. To the best of your knowledge, do you
23 have any other factual basis to support these
24 charges that you do not see reflected in your
25 statement in the document?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 MR. ARKO: Objection.

3 A. No.

4 Q. So it is your testimony today that to
5 the best of your recollection all the information
6 that you had to support the charges of OGA and
7 resisting arrest you see reflected in your
8 Criminal Complaint.

9 Correct?

10 MR. ARKO: Objection.

11 A. Yes.

12 Q. Do you have any understanding of
13 whether both paragraphs here are supposed to be
14 the factual basis for both charges or if the first
15 paragraph refers to the first charge, the second
16 paragraph refers to the second charge?

17 MR. ARKO: Objection.

18 A. I'm not sure how the ADA arranged it
19 here.

20 Q. From your experience, do you have any
21 sense if it is typically done one way or the other
22 way?

23 MR. ARKO: Objection.

24 A. No.

25 Q. Taking a look here at the second

1 POLICE OFFICER ANTONELLA JIMENEZ
2 paragraph under "factual basis" is it accurate, to
3 the best of your recollection today, that the
4 basis for the charge of resisting arrest is that
5 when the defendant was attempting to be placed
6 under arrest he "twisted away, flailed and tensed
7 his arms and made it difficult to handcuff him"?

8 A. Yes.

9 Q. Other than the things listed here as
10 the factual basis for the resisting arrest claim,
11 are you aware of anything else that constitutes
12 the factual basis for that charge?

13 MR. ARKO: Objection.

14 A. Can you repeat the question?

15 Q. Sure. Other than -- actually I will
16 withdraw it and ask something else.

17 When you were talking to the ADA you
18 informed her of the full factual basis for the
19 charge of resisting arrest, correct?

20 A. Yes.

21 Q. And if there was something that
22 constituted the factual basis for that charge that
23 is something you would have told the ADA when you
24 were talking to him or her, correct?

25 A. Yes.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. So other than what's listed here,
3 "twisting away, flailing and tensing his arms and
4 making it difficult to handcuff him," are you
5 aware of anything else that constitutes the basis
6 for the charge of resisting arrest?

7 MR. ARKO: Objection.

8 A. No.

9 Q. If there had been some other actions
10 that defendant had done, that is something you
11 would have told the ADA, correct?

12 MR. ARKO: Objection.

13 A. Yes.

14 MS. KAUFMAN: I am going to show you
15 the footage that has previously been marked as
16 Def 054, it is body-worn camera footage --

17 MR. ARKO: Which exhibit number is
18 that?

19 MS. KAUFMAN: Plaintiff's Exhibit 3.

20 (Plaintiff's Exhibit No. 3 was
21 marked for identification.)

22 Q. I am going to queue up the video to
23 play from the 52nd mark. Tell me if there is any
24 lag. Is the video up? Can you see it's loaded?

25 A. Yes.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. I am going to play it from 50, and if I
3 can time it accurately at around 1:11.

4 MR. ARKO: We can't hear the sound. I
5 don't know if that is deliberate.

6 MS. KAUFMAN: It is not deliberate,
7 although it may not matter...can you hear it now?

8 MR. ARKO: Yes.

9 Q. Let me go back to 50 and I will start
10 it again.

11 (Video played.)

12 Q. I stopped it at 1:10. Is this
13 body-worn camera footage you had viewed in
14 preparation for your deposition today?

15 MR. ARKO: Objection.

16 A. Yes.

17 Q. Do you recognize this footage as
18 depicting the incident where Mr. Harris approached
19 the vehicle and was TASED?

20 A. Yes.

21 Q. Do you see that the officer who
22 approached Mr. Harris was actually Lieutenant
23 Lane, and not Detective Swinkunas?

24 A. Can you repeat that?

25 Q. Sure. Did you see that the officer who

1 POLICE OFFICER ANTONELLA JIMENEZ
2 turned and attempted to put plaintiff under arrest
3 was Lieutenant Lane and not Detective Swinkunas?

4 A. Lieutenant Lane went in to grab him,
5 but Swinkunas was also there helping out.

6 Q. So after watching that video, is it
7 still true and accurate to the best of your
8 recollection that when Detective Swinkunas
9 attempted to place the defendant (sic) under
10 arrest, the defendant "twisted away, flailed and
11 tensed his arms, making it difficult to handcuff
12 him"?

13 MR. ARKO: Objection.

14 A. Yes, I am going to state that that is
15 true.

16 Q. Okay. Did you observe in the video at
17 one point that plaintiff put his hands up in the
18 air, and turned his body away from the officers?

19 A. I observed him put his hands in the
20 air, yes.

21 Q. Is that what you were referring to here
22 in your Criminal Complaint where you said he
23 "twisted away and flailed and tensed his arms"?

24 A. When he was asked to put his hands
25 behind his back he didn't listen to the commands,

1 POLICE OFFICER ANTONELLA JIMENEZ
2 he threw his arms up when they were trying to grab
3 him; he didn't comply with the order.

4 Q. My question is a little simpler. When
5 you say here that the defendant "twisted away and
6 flailed and tensed his arms" is that the action we
7 just looked at in the video, is that what you were
8 referring to in this Complaint?

9 MR. ARKO: Objection.

10 A. I was referring to when he was grabbed.

11 Q. Is that what we just saw in the video
12 or not?

13 A. That's what we saw.

14 Q. So, it is your testimony that the
15 twisting away and the flailing and the tensing of
16 his arms is the action we just saw depicted in
17 Def 054, the body-worn camera footage.

18 Correct?

19 A. Yes.

20 Q. Is there anything you described here in
21 your Criminal Complaint as the basis for resisting
22 arrest that we did not just see on the body-worn
23 camera footage?

24 MR. ARKO: Objection.

25 A. No.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Do you recall anything else that was
3 the basis for the resisting arrest charge that we
4 did not just see on the body-worn camera footage?

5 MR. ARKO: Objection.

6 A. No.

7 Q. Backing up, how did it come to be that
8 you and Detective Swinkunas were called to the
9 hospital at 1111 Amsterdam on the night of
10 September 2nd, 2020?

11 A. Like how -- can you just --

12 Q. Sure. Did you, at any point, receive
13 an instruction to go to the hospital at 1111
14 Amsterdam on the night of September 2nd, 2020?

15 A. I don't remember exactly how, but I
16 believe that is what happened.

17 Q. Do you remember who told you to go
18 there?

19 A. I don't remember.

20 Q. Do you remember what information you
21 were given when you were told to go to the
22 hospital?

23 A. I believe all we knew was there was a
24 shot victim in the hospital.

25 Q. Do you know whether the shooting had

1 POLICE OFFICER ANTONELLA JIMENEZ

2 occurred in your sector or in a different sector?

3 A. No, I didn't know.

4 Q. Do you know whether you received a call
5 over your radio or by cell phone or any other way?

6 A. I don't remember.

7 Q. Do you remember where you were when you
8 received the instruction to go to 1111 Amsterdam
9 that night?

10 A. No, I don't remember.

11 Q. Do you recall approximately what time
12 you showed up at the hospital that night?

13 A. I don't remember.

14 Q. Who was driving the patrol car that
15 night, you or Detective Swinkunas?

16 A. Detective Swinkunas.

17 Q. When you and Detective Swinkunas
18 arrived at 1111 Amsterdam where -- did you arrive
19 in your vehicle?

20 A. Yes.

21 Q. Did you park your vehicle at some
22 point?

23 A. I believe we did.

24 Q. Where did you park your vehicle when
25 you arrived at the hospital?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. I don't remember exactly.

3 Q. Do you remember what street you parked
4 it on?

5 A. 113th Street.

6 Q. Why did you park it on 113th Street to
7 the best of your recollection?

8 A. That's where the hospital is.

9 Q. Other than the fact that there had been
10 a shooting victim, do you recall any information
11 that you had at the time that you arrived at the
12 hospital on September 2nd, 2020?

13 A. No.

14 Q. What was your understanding of why you
15 and Detective Swinkunas had been dispatched to the
16 hospital in response to the shooting victim?

17 A. I don't remember.

18 Q. Do you have any recollection of any
19 assignment you were supposed to do or things you
20 were supposed to follow up on or your purpose for
21 being there?

22 A. No.

23 Q. When you arrived at the hospital, where
24 did you go?

25 A. Inside the hospital.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Do you recall what entrance you went
3 in?

4 A. The emergency -- the ambulance
5 entrance.

6 Q. Where is the ambulance entrance?

7 A. On 113th Street.

8 Q. When you arrived at the hospital and
9 walked towards the ambulance entrance, between the
10 time you exited your car and the time you entered
11 the emergency room, did you see any other NYPD
12 members?

13 A. I don't remember.

14 Q. From the time you exited your car and
15 the time you entered the hospital, did you observe
16 anything at the scene outside of the emergency
17 room?

18 A. Yes.

19 Q. What did you observe?

20 A. There was a car at the ambulance bay.

21 Q. What did you observe about that car?

22 A. There was a door open, it wasn't
23 parked, it was kind of in the way at the ambulance
24 bay.

25 Q. Can you describe positionally how it

1 POLICE OFFICER ANTONELLA JIMENEZ

2 was located with respect to the emergency room?

3 A. Yes, the front of the vehicle was
4 facing the ambulance bay, and it was positioned
5 right on the sidewalk and entrance to the
6 ambulance bay.

7 Q. Was the car on the sidewalk at all?

8 A. Yes, it was on the sidewalk and on the
9 ramp of the ambulance bay.

10 Q. So at least part of the car wasn't on
11 the street?

12 A. Part was on the street and part was
13 not.

14 Q. Do you recall which door of the car was
15 open?

16 A. I believe it was the front passenger.

17 Q. Did you observe anything else about the
18 car at the time you were walking into the
19 emergency room?

20 MR. ARKO: Objection.

21 A. I believe there was blood in there.

22 Q. Did you notice that blood at the time
23 you were walking into the ER?

24 A. Yes.

25 Q. Where did you see the blood at the time

1 POLICE OFFICER ANTONELLA JIMENEZ

2 that you were walking into the ER?

3 A. I don't remember exactly.

4 Q. Was the blood on the interior of the
5 car or the exterior of the car?

6 A. The interior.

7 Q. Did you look or inspect the interior of
8 the car before walking into the emergency room?

9 A. No.

10 Q. Did you know at that time that the car
11 was related to the shooting that you had been
12 called to the hospital for?

13 A. No.

14 Q. Did you suspect that based on the
15 circumstances of the car?

16 A. No.

17 Q. Did you think it was unusual for the
18 car to be parked there in that manner, with the
19 door open and blood?

20 MR. ARKO: Objection.

21 A. Yes.

22 Q. Did you do anything about the fact that
23 you found that unusual, such as notifying hospital
24 staff or calling someone else from the NYPD or
25 anything like that?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. No.

3 Q. Why not?

4 A. I believe there were officers there
5 already, I just don't remember who was there
6 exactly.

7 Q. Approximately how many officers do you
8 think may have been there already?

9 A. I don't remember.

10 Q. Do you think it was more than five or
11 less than five?

12 MR. ARKO: Objection.

13 A. I wouldn't be able to say.

14 Q. What did you do after entering the
15 emergency room?

16 A. I just went into the emergency room to
17 where there were other officers.

18 Q. Were there other officers already in
19 the emergency room as well?

20 A. Yes.

21 Q. Who were the officers in the emergency
22 room?

23 A. I don't know exactly who was there, but
24 I know that Sector Adam was there.

25 Q. Is that a different sector within the

1 POLICE OFFICER ANTONELLA JIMENEZ

2 26th Precinct?

3 A. Yes, it is.

4 Q. When you say "Sector Adam was there,"
5 do you mean that members of the NYPD who were
6 assigned to that sector were present in the ER?

7 A. Yes.

8 Q. Approximately how many officers from
9 Sector Adam did you see in the ER?

10 A. Two.

11 Q. Do you recall either of their names?

12 A. I know one is Fernandez and I don't
13 remember the other one's name.

14 Q. What is Fernandez's rank?

15 A. Police officer.

16 Q. Do you think that the other person who
17 was there was also a police officer or was
18 potentially a supervisor?

19 A. Police officer.

20 Q. When you encountered Officer Fernandez
21 and the other police officer, did you have a
22 conversation with them?

23 A. No.

24 Q. What did you do when you encountered
25 them?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. I don't remember exactly what that
3 situation was like, but I don't remember having
4 any conversations.

5 Q. What did you do after encountering
6 Officer Fernandez and Officer Valdez in the ER?

7 MR. ARKO: Objection.

8 A. After that I know me and my partner
9 went back outside to watch the vehicle.

10 Q. Did you at any point while you were in
11 the emergency room see the shooting victim?

12 A. No.

13 Q. Did you at any point while you were in
14 the emergency room learn any more information
15 about the shooting victim?

16 A. No. All I know is that the shot victim
17 (sic) was driven into the hospital in that vehicle
18 that was outside.

19 Q. When did you learn that?

20 A. I believe that was in the hospital.

21 Q. Who do you think you learned that from?

22 A. I don't remember.

23 Q. But you think that at the time you
24 exited the hospital you knew that the shooting
25 victim had arrived in that vehicle?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. I believe so.

3 Q. Other than the fact that the victim had
4 arrived in that vehicle, did you learn anything
5 else about the shooting victim or the
6 circumstances of the shooting while you were in
7 the hospital?

8 A. No.

9 Q. Other than Officer Fernandez and the
10 other NYPD officer, and potentially Detective
11 Swinkunas, did you talk to anyone else while you
12 were inside of the emergency room?

13 A. Not that I remember.

14 Q. You testified a moment ago that you
15 went back outside to watch the vehicle.

16 Is that correct?

17 A. Yes.

18 Q. How did you get the instruction that
19 you were supposed to watch the vehicle outside?

20 A. I believe it came from my supervisor.

21 Q. Who would that be?

22 A. Lieutenant Leon.

23 Q. How did Lieutenant Leon convey to you
24 the order that you were supposed to watch the
25 vehicle outside?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. What do you mean?

3 Q. Did he tell you in person, did he text
4 you, did he radio you, something else?

5 A. I don't remember, I don't remember if
6 he was there already.

7 Q. Did he give you any understanding of
8 why you were supposed to be watching the vehicle
9 outside?

10 MR. ARKO: Objection.

11 A. I don't remember exactly what was said,
12 but I know that at the moment there was an
13 investigation.

14 Q. When you say "it was an investigation"
15 what do you mean by that?

16 A. I believe the car, nobody knew who
17 drove the car, we didn't have the keys to the car,
18 the doors were open, there were a lot of questions
19 that we didn't know.

20 Q. When you exited the hospital to go
21 watch the vehicle, did you see any other members
22 of service outside the hospital at that point?

23 A. I don't remember.

24 Q. Did you at some point go to watch the
25 vehicle?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. Yes, I stood by the vehicle.

3 Q. Was Detective Swinkunas with you when
4 you were standing by the vehicle?

5 A. Yes.

6 Q. Were there any other members of the
7 NYPD with you when you were standing by the
8 vehicle?

9 A. I believe it was Lieutenant Lane, the
10 other officer, and Lieutenant Leon and Swinkunas.

11 Q. Is the other officer that you're
12 referring to Officer Baltzer?

13 A. Yes.

14 Q. When did you first see Lieutenant Lane,
15 Officer Baltzer and Lieutenant Leon outside of the
16 vehicle?

17 A. I don't remember.

18 Q. When you were watching the vehicle, can
19 you describe to me where everyone was physically
20 located with respect to the vehicle?

21 A. I don't remember, I know we were
22 standing by the passenger side.

23 Q. When you say "we" do you mean you and
24 Detective Swinkunas or somebody else?

25 A. Me and Detective Swinkunas.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Do you remember the make and model of
3 the vehicle?

4 A. No.

5 Q. Do you remember whether it was a sedan
6 or SUV?

7 A. I believe it was an SUV.

8 Q. Do you remember the color?

9 A. No.

10 Q. If I told you it was a 2007 Chevy Tahoe
11 in blue, do you have any reason to disagree or
12 dispute that?

13 MR. ARKO: Objection.

14 A. No.

15 Q. At the time that you were watching the
16 vehicle with Detective Swinkunas, did you inspect
17 the vehicle in any way?

18 MR. ARKO: Objection.

19 A. No, I just took a look but I didn't
20 necessarily go in there and touch anything.

21 Q. When you say you "inspected it" what do
22 you mean by that?

23 A. I just looked at the vehicle, I was
24 just standing around there.

25 Q. Did you do a search of the interior?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. No.

3 Q. Did you take any steps to secure the
4 vehicle as a crime scene, for example, by putting
5 up barriers or caution type?

6 MR. ARKO: Objection.

7 A. No.

8 Q. Did you do anything to indicate to
9 members of the public that the vehicle was under
10 investigation or part of a crime scene by, for
11 example, putting up caution tape or barriers?

12 MR. ARKO: Objection.

13 A. No.

14 Q. Is it typically your practice when
15 securing or watching something that's under
16 investigation to put up police caution tape or
17 otherwise indicate that to members of the public?

18 MR. ARKO: Objection.

19 A. Yes.

20 Q. Why was that not done in this case?

21 A. I was not instructed to.

22 Q. Approximately how long were you
23 standing watching the vehicle, before Mr. Harris
24 arrived at the scene?

25 A. I don't remember.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Do you think it was hours, minutes
3 seconds?

4 MR. ARKO: Objection.

5 A. I don't remember, it was somewhere
6 between minutes and an hour.

7 Q. Do you have any idea approximately what
8 time Mr. Harris showed up at the scene?

9 A. No, I don't remember.

10 Q. Between the time that you exited the ER
11 to watch the vehicle and the time that Mr. Harris
12 showed up, did you have any conversations with
13 Lieutenant Lane or Lieutenant Leon or Officer
14 Baltzer?

15 A. Not that I remember.

16 Q. From the time you exited the emergency
17 room to watch the vehicle to the time Mr. Harris
18 showed up, did you learn anything else about the
19 shooting or the circumstances of the shooting?

20 A. Not that I remember.

21 Q. So to the best of your recollection the
22 only information that you had at the time
23 Mr. Harris showed up was that the victim -- there
24 was a shooting victim and he had arrived in the
25 vehicle, is that correct?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. Yes.

3 Q. Other than Officer Baltzer and
4 Lieutenant Lane, Lieutenant Leon and Detective
5 Swinkunas, was anyone else from the NYPD watching
6 or guarding or outside the vehicle at the time
7 Mr. Harris showed up?

8 MR. ARKO: Objection.

9 A. Not that I remember.

10 Q. I think you testified earlier that
11 Lieutenant Leon was one of your supervisors.

12 Is that correct?

13 A. That is correct.

14 Q. Is he someone who you had worked with
15 previously, frequently, during your time at the 26
16 Precinct?

17 A. No.

18 Q. Is he someone who you're familiar with
19 now and work with generally?

20 MR. ARKO: Objection.

21 A. No.

22 Q. Is Detective Lane (sic) someone who you
23 knew and interacted with frequently at the time of
24 this incident?

25 MR. ARKO: Objection.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. No.

3 Q. Is he someone who you know and interact
4 with frequently currently?

5 MR. ARKO: Objection.

6 A. No.

7 Q. What about Officer Baltzer, is he
8 someone who you knew and interacted with at the
9 time of this incident?

10 MR. ARKO: Objection.

11 A. No.

12 Q. Is he someone who you know or interact
13 with regularly now?

14 MR. ARKO: Objection.

15 A. No.

16 Q. Did you observe Mr. Harris arriving at
17 the scene in a vehicle?

18 A. No.

19 Q. When did you first see Mr. Harris?

20 A. When he was walking towards the
21 vehicle.

22 Q. Where was he walking from
23 geographically, like north, south, east, west?

24 MR. ARKO: Objection.

25 A. He was walking from, I believe it was

1 POLICE OFFICER ANTONELLA JIMENEZ

2 the west.

3 Q. So walking from Amsterdam Avenue down
4 113th Street?

5 A. Yes.

6 Q. As Mr. Harris was walking down 113th
7 Street from Amsterdam, did he identify himself as
8 the owner of the vehicle?

9 A. I don't remember exactly.

10 Q. I am going to show you again the
11 document we have marked as Plaintiff's [Exhibit 11](#).

12 Are you able to see this document?

13 A. Yes.

14 Q. Do you see in the first sentence of the
15 factual basis paragraph your Criminal Complaint
16 states "I observed the defendant approach the
17 vehicle and state in substance 'that's my car.'"

18 Do you see that?

19 A. Yes.

20 Q. Does that refresh your recollection
21 that Mr. Harris identified himself as the owner of
22 the vehicle as he was approaching it?

23 A. Yes.

24 Q. As Mr. Harris was approaching the
25 vehicle he also identified himself as the shooting

1 POLICE OFFICER ANTONELLA JIMENEZ

2 victim's father, is that correct?

3 A. Yes.

4 Q. Other than identifying himself as the
5 shooting victim's father and the owner of the
6 vehicle, do you recall anything else Mr. Harris
7 said between the time that he started walking
8 towards you and the time he basically got to the
9 vehicle in front of the ER?

10 A. No, I don't remember.

11 Q. Did any of the other members of service
12 interact with or speak to Mr. Harris as he was
13 approaching the vehicle?

14 A. I don't remember exactly.

15 Q. Did you say anything to Mr. Harris as
16 he was approaching the vehicle?

17 A. No.

18 Q. What happened once plaintiff arrived at
19 the vehicle?

20 A. When he arrived at the vehicle he was
21 being instructed -- asked to move away from the
22 vehicle. Mr. Harris was not being cooperative at
23 the moment and would not step away, he was warned
24 that he would be placed under arrest, he was not
25 being cooperative at the moment either.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Who asked Mr. Harris to move away from
3 the vehicle?

4 A. I don't remember.

5 Q. Did you ever tell Mr. Harris to move
6 away from the vehicle?

7 A. No.

8 Q. Who warned Mr. Harris that he would be
9 placed under arrest?

10 A. I believe it was Lieutenant Lane.

11 Q. Did you ever tell Mr. Harris that he
12 could be placed under arrest?

13 A. No.

14 Q. Between the time that Mr. Harris
15 arrived at the car and the time he was TASED, did
16 you say anything to him or give him any commands?

17 A. Not that I remember.

18 Q. Did Detective Swinkunas say anything to
19 plaintiff or give him any commands?

20 A. I don't remember.

21 Q. Did Lieutenant Leon say anything to
22 plaintiff or give him any commands?

23 A. I believe Lieutenant Leon was telling
24 him somewhere along the lines that the car was
25 under investigation.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Did Officer Baltzer say anything to
3 plaintiff or give him any commands?

4 A. I don't remember.

5 Q. During the time that Mr. Harris was
6 talking to the officers outside the vehicle before
7 he was TASED, where were you standing?

8 A. I believe I was behind Lieutenant Leon,
9 behind Swinkunas, somewhere around there.

10 Q. Where was Detective Swinkunas standing
11 at the time there was a conversation with
12 plaintiff outside of the vehicle?

13 A. Right by the passenger's side door,
14 front door.

15 Q. Where was Lieutenant Leon standing
16 during the conversation with plaintiff outside of
17 the car?

18 A. I believe he was by her left.

19 Q. By Detective Swinkunas' left?

20 A. Yes.

21 Q. Where was Lieutenant Lane standing
22 during that conversation outside of the vehicle?

23 A. I believe it was by Lieutenant Leon's
24 left side.

25 Q. Where was Officer Baltzer standing

1 POLICE OFFICER ANTONELLA JIMENEZ

2 during the conversation outside of the vehicle?

3 A. I believe he was behind Lieutenant
4 Lane.

5 Q. Where was Mr. Harris standing during
6 the conversation outside of the vehicle?

7 MR. ARKO: Objection.

8 A. I believe he was in front of Lieutenant
9 Leon -- right by the door, as well as the front
10 passenger side.

11 Q. So when you say "in front of Lieutenant
12 Leon" you mean facing Lieutenant Leon near the
13 front passenger side door?

14 A. Yes, he was by the front passenger
15 side.

16 Q. At some point did one or more of the
17 officers attempt to place plaintiff under arrest?

18 MR. ARKO: Objection.

19 A. Can you repeat that?

20 Q. At some point did one or more of the
21 officers attempt to place plaintiff under arrest?

22 A. At what point before he was warned? I
23 don't...

24 Q. Before he was TASED, did one of the
25 officers attempt to place plaintiff under arrest?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. He was warned that he would get
3 arrested.

4 Q. Did anybody take any steps to arrest
5 him at any point?

6 A. I believe Lieutenant Lane reached in to
7 place him under arrest.

8 Q. You cut out, sorry, can you say that
9 again?

10 A. I believe Lieutenant Lane reached out
11 to plaintiff to place him under arrest.

12 Q. Is that what we saw depicted in the
13 video where we saw plaintiff turn to put his hands
14 in the air?

15 A. Yes.

16 Q. Other than Lieutenant Lane, did any of
17 the other officers at the scene take any physical
18 steps to place plaintiff under arrest by reaching
19 for him, grabbing him or anything else?

20 MR. ARKO: Objection.

21 A. At the moment that Lieutenant Lane
22 reached in, I believe Detective Swinkunas reach in
23 as well.

24 Q. What did Detective Swinkunas do
25 physically to place plaintiff under arrest?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 MR. ARKO: Objection.

3 A. I believe she also reached in to grab
4 him.

5 Q. Did Detective Swinkunas actually
6 succeed in making physical contact in grabbing the
7 plaintiff?

8 A. I don't remember.

9 Q. Where on plaintiff's body did Detective
10 Swinkunas reach to try to grab him?

11 MR. ARKO: Objection.

12 A. I don't remember.

13 Q. Do you recall anything else about the
14 circumstances in which Detective Swinkunas
15 physically reached to Mr. Harris to try to place
16 him under arrest?

17 MR. ARKO: Objection.

18 A. Besides the initial part of when
19 Lieutenant Lane reached in and Swinkunas to grab
20 him, no.

21 Q. Is it your testimony that Lieutenant
22 Lane and Detective Swinkunas reached to grab
23 Mr. Harris at the same time or one of them tried
24 first and then the other one tried or something
25 else?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 MR. ARKO: Objection.

3 A. I believe Lieutenant Lane reached him
4 first.

5 Q. When Lieutenant Lane reach for
6 plaintiff, was he successful in making physical
7 contact and grabbing him?

8 MR. ARKO: Objection.

9 A. I'm going to say no.

10 Q. Is it your testimony that after he was
11 unsuccessful, then Detective Swinkunas tried to
12 make physical contact with plaintiff to grab him?

13 MR. ARKO: Objection.

14 A. What I'm saying is when Lieutenant Lane
15 reached in to grab him, Swinkunas reached in as
16 well.

17 Q. It was close in time, but not exactly
18 simultaneous.

19 Is that what you're saying?

20 A. Yes.

21 Q. At any point before Mr. Harris was
22 TASED, did Lieutenant Leon take any physical steps
23 to restrain or arrest the plaintiff?

24 MR. ARKO: Objection.

25 A. I don't remember.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. At any point before Mr. Harris was
3 TASED, did you take any steps to intervene or
4 restrain or arrest the plaintiff?

5 MR. ARKO: Objection.

6 A. No.

7 Q. Why did you not take any steps to
8 physically intervene to restrain or arrest
9 Mr. Harris at that time?

10 A. I believe it happened very quickly from
11 the moment he was initially grabbed to the moment
12 that he was TASED.

13 Q. Did you, at any point, attempt to sort
14 of move towards Mr. Harris so you could help
15 Lieutenant Lane and Detective Swinkunas to
16 physically restrain or arrest him?

17 MR. ARKO: Objection.

18 A. I believe I took a step.

19 Q. Your testimony is that you took a step
20 towards Mr. Harris in order to assist them?

21 A. Yes.

22 Q. Other than taking a step towards
23 Mr. Harris in order to potentially assist them,
24 did you do anything else in order to -- take any
25 other physical steps in order to restrain or

1 POLICE OFFICER ANTONELLA JIMENEZ

2 arrest Mr. Harris?

3 MR. ARKO: Objection.

4 A. No.

5 Q. After taking that one step to
6 potentially move forward to assist with
7 restraining or arresting, how come you stopped or
8 didn't take any further steps or actions?

9 MR. ARKO: Objection.

10 A. I believe that's when he was TASED.

11 Q. At any point before Mr. Harris was
12 TASED, did Officer Baltzer take any steps to
13 restrain or arrest Mr. Harris?

14 A. I don't remember.

15 Q. At any point before Mr. Harris was
16 TASED, did you make physical contact with him?

17 A. No.

18 Q. At any point before Mr. Harris was
19 TASED, did Lieutenant Lane make physical contact
20 with him?

21 MR. ARKO: Objection.

22 A. Yes.

23 Q. How did Lieutenant Lane make physical
24 contact with plaintiff, prior to when plaintiff
25 was TASED?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. He reached out to grab him.

3 Q. Did he successfully grab his body or he
4 just made physical contact and did not grab his
5 body, prior to when Mr. Harris was TASED?

6 MR. ARKO: Objection.

7 A. I don't remember exactly.

8 Q. Where on Mr. Harris' body did
9 Lieutenant Lane reach for?

10 A. His hands.

11 Q. Anywhere else?

12 A. I don't remember.

13 Q. Did Mr. Harris take any physical action
14 back towards Lieutenant Lane, such as pushing him,
15 hitting him or punching him?

16 A. I believe when Lieutenant Lane reached
17 out to grab him and then Detective Swinkunas
18 grabbed him I believe that's when he linked his
19 arms or pushed away.

20 Q. That's the action that we saw depicted
21 on the video at Def 054, correct?

22 A. Yes.

23 Q. Is it your testimony that you can see
24 in the video that Mr. Harris pushed Lieutenant
25 Lane?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 MR. ARKO: Objection.

3 A. I believe in the video you can see when
4 he pushed his arms up.

5 Q. Right. He put his arms up in the air,
6 correct?

7 A. Yes.

8 Q. My question is, did the plaintiff ever
9 physically shove or push Lieutenant Lane?

10 A. I don't remember that.

11 Q. Did you ever see the plaintiff shove or
12 push Detective Swinkunas?

13 A. I don't remember.

14 Q. At some point did you hear a TASER
15 order be given?

16 A. Yes.

17 Q. To the best of your recollection, what
18 was going on between plaintiff, Mr. Harris, and
19 Lieutenant Lane and Detective Swinkunas at the
20 moment that you first heard the TASER order?

21 A. Well, Lieutenant Lane and Detective
22 Swinkunas were trying to place Mr. Harris under
23 arrest, they were not being successful and then I
24 heard the TASER order come in from Lieutenant
25 Leon.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. What did you hear Lieutenant Leon say?

3 A. I believe it was "TASE him."

4 Q. How many times did you hear Lieutenant
5 Leon give a TASER order?

6 A. I don't remember exactly; maybe two,
7 three times.

8 Q. Did he say the same thing "TASE him"
9 all three times or did he have different commands
10 each of the times?

11 A. I don't remember exactly, but I believe
12 it was the same.

13 Q. When Lieutenant Leon said "TASE him,"
14 who did you understand that order to be directed
15 to?

16 MR. ARKO: Objection.

17 A. I don't know.

18 Q. At the time that you were standing
19 there and you heard that order, did you have a
20 TASER?

21 A. I did.

22 Q. Did you understand Lieutenant Leon to
23 be directing you to TASE the plaintiff?

24 A. I don't know who he was directing it at
25 honestly.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. My question is, did you perceive him to
3 be directing it to you?

4 A. No.

5 Q. Why not?

6 A. I didn't see him face me or tell me
7 directly.

8 Q. Did you know at the time whether other
9 members of service at the scene also had a TASER?

10 A. Yes, I believe we all did, but I am not
11 100 percent on that.

12 Q. At the time though that you were
13 standing there, did you know whether anybody else
14 at the scene had a TASER?

15 A. Yes.

16 Q. Who did you know at the time had a
17 TASER?

18 A. I believe Lieutenant Lane, Lieutenant
19 Leon and PO Baltzer had TASERS.

20 Q. How did you know at the time of that
21 incident that those other members of service had a
22 TASER?

23 A. Like I said, I didn't know 100 percent
24 that they did but usually at the beginning of tour
25 all the members who go out on the patrol pick up a

1 POLICE OFFICER ANTONELLA JIMENEZ

2 TASER.

3 Q. So your testimony is that you assumed
4 that someone else present also had one, but you
5 didn't know for sure.

6 Is that fair?

7 MR. ARKO: Objection.

8 A. Yes.

9 Q. After you heard Lieutenant Leon give
10 the TASER order, did you take any steps to get
11 your TASER out?

12 A. I don't remember if I did that.

13 Q. You don't remember whether you reached
14 for your TASER or not?

15 A. No, I don't think I did.

16 Q. Why did you not reach for your TASER
17 when you heard the TASER order?

18 MR. ARKO: Objection.

19 A. I believe I had just started patrol, I
20 don't believe I was quick enough to pull for my
21 TASER.

22 Q. So it's your testimony that you heard
23 the command but you didn't reach for it because
24 you were inexperienced and didn't have the
25 instinct to do that?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 MR. ARKO: Objection.

3 A. Yes.

4 Q. At any point after the second or third
5 TASER warning, did you then take any steps to get
6 your TASER out?

7 A. No.

8 Q. After hearing multiple TASER orders at
9 any point, did you begin to think that perhaps the
10 order that Lieutenant Leon was giving to TASE
11 Mr. Harris was an order directed to you?

12 MR. ARKO: Objection.

13 A. No.

14 (Recess.)

15 MS. KAUFMAN: Can you read back the
16 last question?

17 (The following was read from the record by the
18 stenographer: "Q. After hearing multiple TASER
19 orders at any point, did you begin to think that
20 perhaps the order that Lieutenant Leon was giving
21 to TASE Mr. Harris was an order directed to you?

22 Followed by an Objection and A. No.")

23 Q. At some point did you observe that
24 Officer Baltzer removed his TASER and TASED
25 Mr. Harris?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. Yes.

3 Q. Where was Mr. Harris standing at the
4 moment that he was TASED?

5 A. He was still at the initial location,
6 the front passenger's driver side -- I mean the
7 front passenger side, sorry.

8 Q. Was Mr. Harris standing in front of the
9 open door or behind the open passenger side door?

10 A. He was standing -- I'm sorry can you
11 repeat that?

12 Q. Sure. Was he standing in between the
13 open door and the car?

14 A. Yes, he was.

15 Q. Was any part of Mr. Harris' body inside
16 of the car at the time that he was TASED?

17 A. I don't remember.

18 Q. At the time that Mr. Harris was TASED,
19 where were Lieutenant Lane and Detective
20 Swinkunas?

21 A. They were still right by him.

22 Q. Were they in physical contact with him
23 or had they moved out of the way?

24 MR. ARKO: Objection.

25 Q. Or something else?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 A. I believe they had moved out of the
3 way.

4 Q. Prior to TASEing Mr. Harris, did
5 Officer Baltzer issue any sort of TASER warning?

6 A. I believe he did give a warning.

7 Q. What do you believe he said?

8 A. I believe he said "TASER."

9 Q. When he said "TASER," it was clear to
10 you that this was a warning to other officers to
11 get out of the way, correct?

12 MR. ARKO: Objection.

13 A. Yes.

14 Q. It was not a warning to plaintiff that
15 he should stop doing whatever he was doing or he
16 was going to get TASED, correct?

17 MR. ARKO: Objection.

18 A. I believe it was a warning for
19 everyone.

20 Q. When it was -- so with respect to it
21 being a warning for plaintiff, is it your
22 testimony it was a warning to plaintiff that he
23 was about to be TASED?

24 A. Yes.

25 Q. After Officer Baltzer said "TASER,

1 POLICE OFFICER ANTONELLA JIMENEZ

2 TASER, TASER" it was your understanding from the
3 situation that he intended to TASE the plaintiff
4 at that point, correct?

5 MR. ARKO: Objection.

6 A. Yes.

7 Q. Where you heard the TASER warning, did
8 you move out of the way or adjust yourself so you
9 wouldn't get hit by the TASER prongs?

10 A. Yes.

11 Q. What did you do when you heard the
12 warning?

13 A. I believe I took a step back.

14 Q. Did you do anything else when you heard
15 the warning?

16 A. Not that I remember.

17 Q. When Lieutenant Baltzer (sic) TASED
18 plaintiff, where did he make contact with him;
19 where did the TASER prongs land?

20 A. I don't remember exactly.

21 Q. After Officer Baltzer TASED plaintiff,
22 what happened next?

23 A. Then Mr. Harris was placed under
24 arrest.

25 Q. Did Mr. Harris fall to the ground when

1 POLICE OFFICER ANTONELLA JIMENEZ

2 he was TASED?

3 A. I believe yes.

4 Q. Did you observe the manner in which he
5 fell; on his hands, on his body, anything like
6 that?

7 A. No.

8 Q. Did you see which part of Mr. Harris'
9 body hit the ground first?

10 A. I don't remember.

11 Q. You said after he was TASED he was
12 placed under arrest.

13 Is that when he was on the ground?

14 A. Yes.

15 Q. Who was physically involved in placing
16 plaintiff under arrest once he was on the ground?

17 A. I believe Detective Swinkunas placed
18 handcuffs on him.

19 Q. Did anyone else take steps to
20 physically restrain and put plaintiff under arrest
21 while he was on the ground?

22 A. I believe it was Lieutenant Lane, and I
23 don't remember if there was anyone else.

24 Q. Did you, at any point, approach
25 plaintiff when he was on the ground to help place

1 POLICE OFFICER ANTONELLA JIMENEZ

2 him under arrest?

3 A. I believe I did approach, but did not
4 touch him.

5 Q. What was the purpose of you approaching
6 but not touching him?

7 A. I believe I intended to help, but I
8 believe there was not much I could do there
9 because he was already cuffed at the moment.

10 Q. What was your reaction when you heard
11 Lieutenant Leon give the TASER order?

12 MR. ARKO: Objection.

13 A. I don't remember.

14 Q. Were you surprised he gave a TASER
15 order in that circumstance?

16 A. No.

17 Q. Had you ever in your experience on the
18 NYPD, up until that date, seen anyone else be
19 TASED?

20 A. No.

21 Q. Since that date from September 2, 2020
22 to present, have you seen anyone else be TASED
23 while working for the NYPD?

24 A. No.

25 Q. So this is the only time in the course

1 POLICE OFFICER ANTONELLA JIMENEZ
2 of your career when you have been on duty that you
3 have seen a member of service TASE someone,
4 correct?

5 A. Correct.

6 Q. Prior to being TASED, did plaintiff
7 ever give any indication he possessed a weapon on
8 him?

9 MR. ARKO: Objection.

10 A. No.

11 Q. Were you able to see and observe his
12 hands in the moments leading up to the time that
13 he was TASED?

14 A. Yes.

15 Q. Did you see and observe that he did not
16 have any weapons in his hands?

17 MR. ARKO: Objection.

18 A. I don't believe he had any weapons on
19 his hands.

20 Q. Did you, at any point, smell any
21 alcohol or marijuana on plaintiff?

22 A. No.

23 Q. At any point before plaintiff was
24 TASED, did he give you any indication that he was
25 using or possessed any illegal drugs?

1 POLICE OFFICER ANTONELLA JIMENEZ

2 MR. ARKO: Objection.

3 A. No.

4 Q. Prior to being TASED, did the plaintiff
5 make any physical or verbal threats to you or any
6 of the other officers at the scene?

7 MR. ARKO: Objection.

8 A. I don't remember.

9 Q. Sitting here today, can you recall any
10 physical or verbal threats he made to you or the
11 other officers?

12 A. I don't remember.

13 Q. Was anyone else present in the vicinity
14 of the scene, any civilians at the time that
15 plaintiff was TASED?

16 A. I don't remember.

17 Q. Did you have any fear, in the moments
18 leading up to the point plaintiff was TASED, that
19 he was going to physically injure you or any of
20 the other officers or any civilians?

21 A. Yes.

22 Q. Who were you afraid he was going to
23 injure?

24 A. Us or even himself.

25 Q. What was your basis for fearing that he

1 POLICE OFFICER ANTONELLA JIMENEZ

2 would injure you or himself?

3 A. He was being very uncooperative from
4 the start.

5 Q. But he never took any steps to
6 physically injure or assault you or any of the
7 other officers, correct?

8 MR. ARKO: Objection.

9 A. Like I said, he was being
10 uncooperative; he seemed to be upset and he is
11 very big.

12 Q. Did he take any physical steps to
13 assault or injure you or any of the other
14 officers?

15 MR. ARKO: Objection.

16 A. No.

17 Q. Did he take any physical steps to
18 injure any civilians on the street?

19 MR. ARKO: Objection.

20 A. No.

21 Q. At any point did plaintiff try to flee
22 or run away from the scene?

23 A. No.

24 Q. At the time that plaintiff was TASED,
25 according to your Criminal Complaint, the offenses

1 POLICE OFFICER ANTONELLA JIMENEZ
2 he had committed were resisting arrest and
3 obstructing governmental administration, correct?

4 A. Yes.

5 Q. Would you consider those to be serious
6 offenses on the scale of criminal offenses one
7 could commit or less serious offenses?

8 MR. ARKO: Objection.

9 A. I'd say it is a serious offense.

10 Q. Can you give any examples of offenses
11 that you think are less serious than OGA and
12 resisting arrest?

13 MR. ARKO: Objection.

14 A. No, I believe all offenses are serious.

15 Q. So it's your testimony that all
16 offenses are serious?

17 A. Yes.

18 Q. When plaintiff was TASED by Officer
19 Baltzer and fell to the ground, did you observe
20 him making any sounds or saying anything as he
21 fell?

22 A. I don't remember.

23 Q. Did you observe plaintiff screaming as
24 he fell to the ground?

25 A. I believe he did scream; I can't

1 POLICE OFFICER ANTONELLA JIMENEZ
2 remember exactly what it was like or what he said.

3 Q. Did plaintiff appear to be in pain
4 after he was TASED and fell to the ground?

5 MR. ARKO: Objection.

6 A. No.

7 Q. So it's your testimony even though that
8 he was screaming he was not screaming because he
9 was in pain, he was screaming because of something
10 else?

11 MR. ARKO: Objection.

12 A. What I'm saying for the initial (sic)
13 he had screamed, but right after the TASER was
14 done I don't remember any screaming.

15 Q. So did he appear to be in pain at the
16 moment that he was being TASED and then not in
17 pain after that?

18 MR. ARKO: Objection.

19 A. Yes.

20 Q. Approximately how long did it take for
21 plaintiff to stop screaming?

22 A. I don't remember.

23 Q. You testified a moment ago that you
24 have not otherwise in your career seen or witness
25 anyone be TASED during you time at the NYPD.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Is that correct?

3 A. That is correct.

4 Q. Have you ever in any other instance
5 received or heard a TASER order, but not gotten
6 your TASER out in your time on the NYPD?

7 MR. ARKO: Objection.

8 A. No.

9 Q. So this also was the only incident you
10 heard an officer give a TASER order, is that
11 correct?

12 A. That is correct.

13 Q. When you're on patrol and you have a
14 TASER, do you need to wait for a command from a
15 supervisor in order to deploy that TASER or do you
16 have authority to deploy the TASER on your own?

17 A. I have authority to deploy it on my
18 own.

19 Q. Under what circumstances do you have
20 authority to deploy a TASER on your own?

21 A. I would say once someone could
22 potentially hurt others or themselves.

23 Q. At any point in the moments leading up
24 to when Mr. Harris was TASED, did you consider
25 getting out your TASER and TASEing him on your

1 POLICE OFFICER ANTONELLA JIMENEZ

2 own?

3 MR. ARKO: Objection.

4 A. No.

5 Q. Is that because you did not think that
6 the criteria for TASEing him had been met?

7 A. No.

8 Q. Why did you not then at any point
9 consider TASEing him on your own?

10 A. I believe again it was because of my
11 inexperience, I was in training and still learning
12 the job.

13 Q. At any other point in your career, have
14 you considered getting out your TASER and TASEing
15 someone?

16 MR. ARKO: Objection.

17 A. No.

18 Q. Even though you were new on the job and
19 lacked experience at the time, if you had
20 perceived yourself to be in very serious danger is
21 it fair to say that you would have reacted by
22 getting your TASER out?

23 MR. ARKO: Objection.

24 A. I wouldn't be able to say, but yeah.

25 Q. After plaintiff was TASED and was on

1 POLICE OFFICER ANTONELLA JIMENEZ

2 the ground what happened -- after plaintiff was on
3 the ground and had been placed under arrest what
4 happened next?

5 A. I believe EMS was requested and they
6 did respond and took him inside the hospital.

7 Q. How long did it take between the time
8 that Mr. Harris was on the ground and the time he
9 went into the hospital?

10 A. I don't remember exactly the time, but
11 it was the pretty fast; just a few minutes.

12 Q. Did you accompany Mr. Harris inside the
13 hospital?

14 A. Yes, I did.

15 Q. Why did you accompany Mr. Harris to the
16 hospital?

17 A. I was instructed to.

18 Q. Who instructed you to do that?

19 A. Lieutenant Leon.

20 Q. Did Detective Swinkunas go with you?

21 A. Yes.

22 Q. What happened when you got inside the
23 hospital with plaintiff?

24 A. I don't remember exactly, but I know
25 that he was taken to a room where he would be

1 POLICE OFFICER ANTONELLA JIMENEZ

2 examined by the doctor.

3 Q. Did you have any conversations with
4 plaintiff at the time he was in the hospital?

5 A. Not that I remember.

6 Q. Did you observe plaintiff getting any
7 medical treatment?

8 A. Yes, I did.

9 Q. What medical treatment did you observe?

10 A. The probes from the TASER were removed.

11 Q. Anything else?

12 A. No, that's it.

13 Q. Did you have any conversations with
14 anyone else you can recall during the time you
15 were with plaintiff in the hospital?

16 A. Not that I can remember.

17 Q. Approximately how long did you spend
18 with plaintiff in the hospital?

19 A. I don't remember exactly.

20 Q. Do you think it was hours; longer,
21 shorter?

22 MR. ARKO: Objection.

23 A. I don't remember exactly, I will say
24 maybe an hour or so.

25 Q. When plaintiff was released from the

1 POLICE OFFICER ANTONELLA JIMENEZ

2 hospital, what happened next?

3 A. He was taken to back to the station
4 house.

5 Q. Who took him back to the station house?

6 A. I actually don't remember.

7 Q. Did you also go back to the station
8 house, after plaintiff was released from the
9 hospital?

10 A. Yes, I did.

11 Q. Did you drive plaintiff in your police
12 car?

13 A. I don't remember.

14 Q. When you got to the station house, did
15 you have an opportunity to interact further with
16 plaintiff there?

17 A. Yes, I did.

18 Q. What happened between you and plaintiff
19 once you were back at the station house?

20 A. When we were back at the station house
21 I searched him and placed him inside the cell.

22 Q. When you searched him did you remove or
23 find anything of interest?

24 MR. ARKO: Objection.

25 A. No.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Was Mr. Harris' car ever searched?

3 MR. ARKO: Objection.

4 A. I don't know.

5 Q. Do you know if any illegal contraband
6 or drugs were found within his car?

7 A. I don't know.

8 Q. What happened after you searched
9 plaintiff and placed him in a cell?

10 A. I believe I started the processing.

11 Q. When you say "the processing" do you
12 mean the arrest processing?

13 A. Yes.

14 Q. How come you were assigned to be the
15 person doing the arrest processing?

16 A. I don't know.

17 Q. Is it typical for the most junior
18 person on the team to do the arrest paperwork?

19 MR. ARKO: Objection.

20 A. I wouldn't say that's generally how it
21 goes, but it depends -- I don't know -- I honestly
22 don't know who...

23 Q. The charges that Mr. Harris were
24 arrested for was OGA and resisting arrest, right?

25 A. Yes.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. Who made the decision that those would
3 be the charges pressed against Mr. Harris?

4 MR. ARKO: Objection.

5 A. I don't remember exactly.

6 Q. Did you make that decision personally?

7 A. I don't believe I did, usually it comes
8 from a supervisor.

9 Q. Did you have any conversations with any
10 supervisors about what charges to levy against
11 Mr. Harris?

12 A. I'm going to say I did, I just don't
13 remember with who.

14 Q. Do you remember anything about the sum
15 or substance of your conversations with any of
16 your supervisors about what charges to assert
17 against Mr. Harris?

18 A. No.

19 Q. Do you think you had a conversation
20 with your supervisor about which charges to levy
21 against Mr. Harris at the station house or at some
22 point before then?

23 A. I believe it must have been at the
24 station house.

25 Q. Would the supervisor that you discussed

1 POLICE OFFICER ANTONELLA JIMENEZ
2 the charges with, would that have necessarily been
3 Lieutenant Leon or a different supervisor?

4 MR. ARKO: Objection.

5 A. It could have been either one of them
6 (sic) or another supervisor.

7 Q. Do you recall any conversations about
8 other ideas for charging Mr. Harris that were
9 dismissed or you decided not to pursue?

10 MR. ARKO: Objection.

11 A. No, I don't remember.

12 Q. You testified that you started the
13 arrest processing paperwork.

14 What did that entail?

15 A. That entailed starting an online (sic)
16 for the arrest, writing down the circumstances for
17 it, classifications, printing, taking pictures,
18 filling out the other paperwork; it's a lot of
19 them.

20 Q. Did you at any point have to
21 fingerprint Mr. Harris?

22 A. Yes, I did.

23 Q. Do you recall any difficulties with
24 fingerprinting Mr. Harris that night?

25 A. Yes.

1 POLICE OFFICER ANTONELLA JIMENEZ

2 Q. What do you recall about that?

3 A. I believe the prints were not getting
4 through.

5 Q. What do you mean by that?

6 A. They were not receiving the prints. I
7 don't know where they go through directly, but the
8 prints were not going through in the system.

9 Q. Did you have to fingerprint him
10 multiple times?

11 A. Yes.

12 Q. Approximately how long did it take for
13 you to finish processing Mr. Harris' arrest
14 paperwork?

15 A. I don't remember exactly how long.

16 Q. Do you recall at what time Mr. Harris
17 was released from the station house?

18 A. I don't remember.

19 Q. Before Mr. Harris was released from the
20 station house, did you have any conversations with
21 him or give him any paperwork to inform him about
22 next steps?

23 MR. ARKO: Objection.

24 A. I believe he was given a desk
25 appearance ticket that he took with him, informing